

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated October 31, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-19 are pending in the Application.

Applicant thanks the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, claims 1, 4, 5, 7, 9, 17 and 18 are rejected under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2002/0098446 to Alperovich ("Alperovich") in view of U.S. Patent No. 6,706,358 to McDaniel ("McDaniel"). Claim 8 is rejected under 35 U.S.C. §103(a) over Alperovich in view of McDaniel in further view of U.S. Patent No. 6,144,631 to Kawano ("Kawano"). Claims 2, 3, 6, 10-16 and 19 are rejected under 35 U.S.C. §103(a) over Alperovich in view of McDaniel in further view of U.S. Patent Publication No. 2003/0035361 to Knight ("Knight"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-19 are allowable over Alperovich in view of

McDaniel alone and in view of any combination of Kawano and Knight for at least the following reasons.

It is undisputed that "Alperovich is deficient in disclosing providing a readout layer comprising a plurality of optical apertures, the readout layer being located at a distance from the information layer such that each optical aperture is arranged to image substantially only the near field of light emitted from a respective data area." McDaniel is relied on for supplying that which is admitted missing from Alperovich, however, it is respectfully submitted that reliance on McDaniel is misplaced.

McDaniel shows a readout layer 204 adjacent to and in contact with a storage layer 202 (see, FIGs. 5a-5b and Col. 12, lines 15-17 cited in the Office Action). McDaniel also does not disclose or suggest imaging only near field light emitted from the data area, nor is any indication provided in the Office Action how McDaniel is believed to provide this limitation.

It is respectfully submitted that the optical information storage unit of claim 1 is not anticipated or made obvious by the teachings of Alperovich in view of McDaniel. For example, Alperovich in view of McDaniel does not disclose or suggest, an optical information storage unit that amongst other patentable

elements, comprises (illustrative emphasis added) "an information layer comprising a plurality of data areas, each data area being arranged to emit light when illuminated by light at a predetermined wavelength; and a readout layer separated from the information layer so that the readout layer and the information layer are not in contact with each other, the readout layer comprising a plurality of optical apertures, each optical aperture being arranged to image substantially only the near field of light emitted from a respective data area" as recited in claim 1, and as similarly recited in claim 17.

The Office Action admits that "Alpervoich and McDaniel are deficient in disclosing the information storage unit, wherein an optically transmissive material is placed between the information layer and the readout layer, the optically transmissive material having a refractive index greater than 1 at the wavelength of the emitted light" (see, Office Action, page 5). However, the Office Action relies on Kawano for showing "an optically transmissive material is placed between the information layer and the readout layer, the optically transmissive material having a refractive index greater than 1 at the wavelength of the emitted light (Column 2, lines 18-35)". It is respectfully submitted that reliance on

Kawano for supplying that which is admitted missing from Alperovich and McDaniel is misplaced. While Kawano does show a transparent dielectric layer (see, FIG. 1) on top of a metal data layer, Kawano does not disclose or suggest a readout layer in any form, and certainly does not disclose or suggest that the readout layer is separated from the information layer so that the readout layer and the information layer are not in contact with each other, with the readout layer comprising a plurality of optical apertures as recited in the claims.

It is further respectfully submitted that the method of claim 15 is not anticipated or made obvious by the teachings of Alperovich in view of McDaniel alone and in view of any combination of Kawano and Knight. For example, Alperovich in view of McDaniel alone and in view of any combination of Kawano and Knight does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "an information layer comprising a plurality of data areas, each data area being arranged to emit light when illuminated by the light at a predetermined wavelength; and a readout layer comprising a plurality of optical apertures, each optical aperture being arranged to image substantially only the near field of light

emitted from a respective data area, wherein the method comprises the steps of: illuminating at least one data area with light at the predetermined wavelength; and detecting the optical intensity of light imaged by the respective optical aperture that corresponds to the illuminated data area, wherein act of illuminating comprises an act of positioning the light such that the light does not pass through the aperture prior to illuminating the data area" as recited in claim 15, and as similarly recited in claims 18 and 19. Knight is introduced for allegedly showing an element of the dependent claims and as such, does nothing to cure the deficiencies in Alperovich in view of McDaniel. As is clear from a simply inspection of each of Alperovich, McDaniel, Kawano and Knight, each shows imaging the data area from a same direction as the data area is read from.

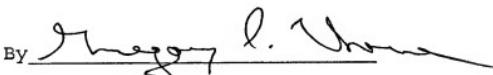
Based on the foregoing, the Applicant respectfully submits that independent claims 1, 15, 17, 18 and 19 are patentable over Alperovich in view of McDaniel alone and in view of any combination of Kawano and Knight and notice to this effect is earnestly solicited. Claims 2-14 and 16 respectively depend from one of claims 1 and 15 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained

in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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